

**Facsimile Transmission**

April 8, 2002

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Our Ref.: 7914-073/090-999

Recipient: Examiner M. Flood - Group 1651

Facsimile Number: 703-746-5245

Company: USPTO

Your Ref.: 09/781,301

Confirmation copy will not follow.

Re: U.S. Patent Application of DI PIERRO
 Appl. No.: 09/781,301; Filed: February 13, 2001
 For: COSMETIC COMPOSITIONS HAVING RETARDING ACTION
 OF THE REGROWTH OF SUPERFLUOUS HAIR

Message

Applicants hereby submit the following documents to be filed with the USPTO.

- 1) Notice of Improper Request for Continued Examination (RCE) (7914-073);
- 2) Response to Notice of Improper Request for Continued Examination (RCE) (7914-073);
- 3) Request for Refund (7914-073);
- 4) Rule 1.53b Continuation Application Transmittal (7914-090);
- 5) Declaration (7914-090);
- 6) Preliminary Amendment (7914-090);
- 7) Information Disclosure Statement (7914-090); and
- 8) Form PTO-1449 (7914-090).

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the identified documents are being filed with the United States Patent and Trademark Office by facsimile transmission on April 8, 2002 to facsimile telephone number 703-746-5245.

Thomas G. Rowan

(Reg. No.)

If you have any problems regarding this transmission, please contact Paul E. Dietze at (202) 496-4460.

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DC1 - 319859.1



APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 3-18-02 is improper for reason(s) indicated below:

- 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct this reply and any questions about this notice to:

J. Lederfraz Examining Group 1600

(703) 308-3900
 FORM PTO-2051 (Rev. 3/2001)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PCTT

Application of:

DI PIERRO

Application No.: 09/781,301

Group Art Unit: 1651

Filed: February 13, 2001

Examiner: M. Flood

For: **COSMETIC COMPOSITIONS
HAVING RETARDING ACTION OF
THE REGROWTH OF
SUPERFLUOUS HAIR**

Attorney Docket No.: 7914-073

**RESPONSE TO NOTICE OF IMPROPER
REQUEST FOR CONTINUED EXAMINATION (RCE)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notice of Improper Request for Continued Examination (RCE), mailed March 29, 2002, a copy of which is attached hereto, Applicants respectfully request that the Request for Continued Examination ("RCE") filed on March 18, 2002 be treated as a continuation application.

On March 18, 2002, Applicants filed a Petition for Extension of Time with provision for the appropriate fee and a RCE transmittal also with provision for the appropriate fee. The RCE, however, was filed when prosecution of the above-identified application was not closed. Accordingly, Applicants should have filed a continuation application. Applicants, by virtue of filing the RCE, obviously intended to keep the above-identified application pending. Therefore, Applicants respectfully request that the RCE filed in the above-identified matter on March 18, 2002 be treated as a continuation application. In accordance with instructions from Examiner Rene Pettus, in a telephone discussion on April 4, 2002, Applicants are filing herewith a Continuation Transmittal, with a copy of the application and declaration, a preliminary amendment, and an IDS to perfect the filing of the continuation application.

Applicants also enclose herewith a Request for Refund Under 37 C.F.R. § 1.128(a) to refund the filing fee for the RCE filed on March 18, 2002.

No fee is believed to be due for this submission. Should any fee be required, please charge such fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,



45,627

Date April 8, 2002

Paul E. Dietze

(Reg. No.)

For: Thomas G Rowan (Reg. No. 34,419)

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